UNITED
NATIONS

S

Security Council

Distr.
GENERAL

S/26486
23 September 1993

ORIGINAL: ENGLISH

LETTER DATED 23 SEPTEMBER 1993 FROM THE SECRETARY-GENERAL ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to convey the attached report addressed to me on 21 September 1993 by the Co-Chairmen of the Steering Committee of the International Conference of the Former Yugoslavia on the latest developments in the search for peace in Bosnia and Herzegovina.

(Signed) Boutros BOUTROS-GHALI

Annex

Report of the Co-Chairmen of the Steering Committee on the activities of the International Conference on the Former Yugoslavia

INTRODUCTION

1. The previous report of the Co-Chairmen, which the Secretary-General transmitted to the Security Council on 1 September 1993 (S/26395) dealt with the peace talks held in Geneva on 31 August and 1 September. In that report the Co-Chairmen indicated that on 1 September they had put to the parties a peace package distilled from the parties' own ideas. The Croat delegation was ready to sign the package. The Serb delegation was also ready to sign. President Izetbegovic, however, still wanted further consideration of the question of access to the Adriatic sea and of some territorial issues.

2. Noting that the choice was between a negotiated peace and the continuation of war, the Co-Chairmen warned of the danger that further conflict could take place and that it could even intensify and expand. Fighting has indeed persisted, especially in central Bosnia and around Mostar, where a number of new offensives appear to have been launched.

3. Since the submission of the preceding report, the Co-Chairmen have maintained contacts with the three sides, as well as with Presidents Bulatovic, Milosevic and Tudjman. The Co-Chairmen shuttled among them, holding meetings in Geneva, Zagreb, Podgorica, Skopje and Belgrade. The Co-Chairmen concentrated their efforts on improving relations among the parties, on the question of the access of the Muslim-majority Republic to the Adriatic Sea and on outstanding territorial questions. In the light of their contacts with the parties, the Co-Chairmen invited them to a meeting aboard HMS Invincible in the Adriatic Sea, on 20 September 1993. All three parties attended, led by President Izetbegovic, Mr. Karadzic and Mr. Boban. Presidents Bulatovic, Milosevic and Tudjman were also present. Deputy Foreign Minister Vitaly Churkin of the Russian Federation and Ambassador Charles Redman of the United States of America were present as observers.

I. IMPROVING RELATIONS AMONG THE PARTIES

4. Since the last report of the Co-Chairmen was issued, there have been some promising political developments, even if the conflict in Bosnia and Herzegovina has not abated. On 14 September, President Izetbegovic and President Tudjman met in Geneva and issued a joint declaration agreeing to the formation of a working group for matters related to territorial delimitation between the Muslim-majority Republic and the Croat-majority Republic in the Union of Bosnia and Herzegovina, including access to the sea, as a matter of common developmental interest. They also agreed on a cessation of all hostilities and military conflicts between the units of the Army of Bosnia and Herzegovina and the Croatian Defence Council (HVO) immediately, and by no later than 18 September 1993, at 1200 hours but unfortunately, as has so often been the case in the past, this was not respected.

5. On 16 September, President Izetbegovic met in Geneva with Mr. Karadzic's representative, Momcilo Krajisnik. They also agreed to a joint declaration and agreed to form a working group for outstanding matters related to the territorial delimitation between the Muslim-majority Republic and the Serb-majority Republic in the Union of Bosnia and Herzegovina, including the areas of Brcko, Bosanska Krajina, the Neretva Valley, eastern Bosnia at the Ozren mountain, including the natural right of the two Republics to access to the sea. This was in addition to the commitment already made to find a permanent solution to the governance of Sarajevo District within two years. They also agreed on the prompt cessation of all hostilities and military conflicts between the units of the Army of Bosnia and Herzegovina and the Bosnian Serb Army immediately, and by no later than 18 September 1993, at 1200 hours. They also agreed to establish direct communications (hot lines) between military commanders at all levels. Fighting between Serbs and Muslims remains at a relatively low level.

6. The Serb and Croat sides have indicated that they plan to meet and to issue a similar declaration.

II. ACCESS TO THE SEA

7. In view of the importance attached to providing the Muslim-majority Republic with access to the Adriatic Sea, arrangements were made for a team of experts from France and Germany to study the possibilities of building a commercial port in the coastal area between Ploce and Neum. In a report dated 20 September, which reached the Co-Chairmen the same day, the experts stated that they could not recommend the building of a port in Neum or on the peninsula of Kosa, in which the Muslim side had expressed interest. They recommended the use of a port in Ploce as a base on the Adriatic Sea with connection to Bosnia and Herzegovina through the Neretva river. That would allow traffic to come from overseas to Ploce and then to an inland port, for example Visici/Celjevo as a port of Bosnia and Herzegovina, with river/seagoing vessels going directly to the Mediterranean Sea, e.g. for general cargo.

8. The experts saw no possibility for constructing a new port in Neum, since there was no available area and the city and its narrow surrounding areas were built on a rocky slope. The road access to the hinterland was not sufficient. There was no railway line to the area of Neum and it was impossible to build a railway line to the city to serve a port. Moreover, the entrance to the bay of Neum was very small and covered with rocky islands, so that ships would have difficulties manoeuvring. Tug-boat services and pilotage would be necessary.

9. Furthermore, the city of Neum, as well as the northern part of the bay and parts of the Mali Ston canal, was a tourist area. The main business was tourism. It was a sensitive area, owing to the fact that the current in the canal was not strong and the exchange of water with the Adriatic Sea was low. As a result of this, the ecological situation in the bay was sensitive and would react quickly to any negative environmental impact. The Mali Ston canal and the bay of Neum was, in the eyes of many environmentalists, a natural reserve and many international environmental associations were interested in protecting the area.

10. Against the background of this information, as well as of related contacts, the Co-Chairmen discussed with President Tudjman, on 18 September 1993, the possibility of the Republic of Croatia granting a 99-year lease to enable a port to be built in Ploce for the use of the Muslim-majority Republic. After consideration of various options, President Tudjman accepted that a draft lease-agreement be prepared.

11. At the meeting on HMS Invincible on 20 September 1993, the following agreements were reached:

(a) The Muslim and Croat parties agreed on the establishment of an exit to the sea for the Muslim-majority Republic through the Croat-majority Republic via the Access Authority Throughway from Poplat to Neum and for the Muslim-majority Republic to hold a tract of land on the shore of the Adriatic on the isthmus of Kosa (Klek) and establish a joint authority between the two Republics to develop the tourist industry in that area;

(b) The Croat and Muslim parties agreed that a port facility for the Muslim-majority Republic should be between Visici and Celjevo on the Neretva, capable of taking vessels transshipping from Ploce and also directly from other ports in the Adriatic, and that the southern border of the Muslim-majority Republic should be moved down from Recice to just above Visici. Initially there would be an Access Authority Throughway along the road from Recice to Tasovcici and to the turn-off to Celjevo. The land for the port would be defined as being south of the houses along the road to Celjevo, west of the houses along the road to Vesici, to the north of the built-up area of Visici and then following the east bank of the Neretva River. If the port was developed, the Muslim-majority Republic would be expected to build a flyover at the Celjevo crossroad and a new road along an agreed route to Recice, avoiding as far as possible existing settlements, and this road, with the land one half a kilometre on either side, and the port area would be part of the Muslim-majority Republic;

(c) The Republic of Croatia agreed to a 99-year lease for a separate port facility for the Muslim-majority Republic at the port of Ploce. The details governing this port facility are set out in the agreement to be concluded between the Republic of Croatia and the Union of Republics of Bosnia and Herzegovina as set out in the appendix to the present report;

(d) It was further agreed among the parties that, as soon as relations between the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro) were normalized, there should be a treaty covering an exchange of territory involving also the Union of Republics of Bosnia and Herzegovina to take account of the need for strategic assurances for Dubrovnik and of the strategic importance of Prevlaka to the Bay of Kotor, the need for the Serb-majority Republic to have access to the sea in the area between Ostri Rt and Molunat, and the need for the Republic of Croatia to be compensated with territory so that there would be no net loss of territory to the Republic of Croatia.

III. TERRITORIAL ISSUES

12. As the Co-Chairmen stated in their report of 1 September 1993, the Serb and the Croat sides have maintained the view that they have already made many concessions on territorial issues to the Muslim side on the understanding that the peace package of 1 September was final. They have stated categorically that, if the peace package is not signed soon by the Muslim side, they would withdraw their concessions.

13. Notwithstanding this, the Co-Chairmen continued to explore with the parties avenues for arriving at an agreed settlement. During the meeting held on HMS Invincible on 20 September 1993 the following further agreements were reached on territorial issues:

(a) As part of the arrangements to provide a port facility for the Muslim-majority Republic, the southern border of the Muslim-majority Republic will be moved down from Recice to just above Visici;

(b) The Serb side agreed that the Muslim-majority Republic should have an additional area of land along the banks of the Drina river between Gorazde and Visegrad.

IV. OBSERVATIONS

14. In the light of the agreements reached on access for the Muslim-majority Republic to the Adriatic Sea and of the addition of territory for the Muslim-majority Republic, President Izetbegovic stated at the meeting on 20 September 1993 that he would put the peace package to an extended meeting of the Parliament of Bosnia and Herzegovina to be held on Monday, 27 September 1993.

Appendix

AGREEMENT BETWEEN THE REPUBLIC OF CROATIA AND THE UNION OF REPUBLICS OF BOSNIA AND HERZEGOVINA GRANTING THE UNION ACCESS TO THE ADRIATIC THROUGH THE TERRITORY OF THE REPUBLIC OF CROATIA

The Republic of Croatia
and
The Union of Republics of Bosnia and Herzegovina

Considering that it is desirable that Union of Republics of Bosnia and Herzegovina (hereinafter the "Union") and in particular the Muslim-majority Republic have assured and unrestricted access to the Adriatic Sea on the surface and in the air through and over the territory of the Republic of Croatia (hereinafter "Croatia")

HEREBY AGREE AS FOLLOWS:

Article 1

(a) Croatia shall lease to the Muslim-majority Republic for the duration of this Agreement the plot of land within the Port of Ploce, including the docks and the parts of the harbour pertaining thereto described in Annex A hereto (hereinafter referred to as the "Leased Area").

(b) Croatia agrees that the Leased Area shall enjoy the status of a free zone, in which no duties or taxes imposed by Croatia shall apply.

Article 2

(a) Croatia shall allow access to and from the Leased Area:

(i) By ships from the Adriatic Sea, through the territorial waters of Croatia, subject to such ships complying with any applicable international regulations;

(ii) By ships or barges up the Neretva River up to the point where that River enters the territory of the Muslim-majority Republic;

(iii) By railroad on the line between Ploce to Sarajevo up to the point where that railroad line enters the territory of the Union;

(iv) By road between Ploce to Sarajevo up to the point where that road enters the territory of the Union.

(b) Ships, barges, railroad cars, and trucks and other road vehicles using the routes referred to in paragraph (a) that carry the flag of the Union or are marked by an emblem of the Union or of the Muslim-majority Republic shall not be entered or inspected by any public authority of Croatia.

(c) Limits on the sizes and specifications of the characteristics of the ships, barges, railroad cars and trucks and other road vehicles referred to in paragraph (b) and of the volume of traffic on the routes referred to in paragraph (a) may be set by the Joint Commission established in accordance with article 4.

(d) Should the limits set in accordance with paragraph (c) restrict the volume of traffic that the Muslim-majority Republic considers it necessary to maintain, then it may, at its cost and in accordance with plans approved by the Joint Commission, arrange for the capacity of the routes referred to in paragraph (a) to be increased.

(e) With respect to any traffic of persons or goods carried out pursuant to this article, all responsibilities for compliance with international laws and obligations shall be assumed by the Muslim-majority Republic or the Union.

Article 3

Croatia grants to the Union and in particular to the Muslim-majority Republic the right to authorize any types of aircraft to overfly the territory of Croatia, including its territorial waters, along the corridor specified in annex B hereto, subject to such aircraft complying with any applicable international air traffic regulations.

Article 4

(a) The Parties hereby establish a Joint Commission to assist in implementing the present Agreement by:

(i) Establishing any rules and standards required for implementing the agreement, and in particular article 2 (c), including for any construction;

(ii) Arrange for any monitoring required to prevent abuses of the Agreement;

(iii) Settle, subject to article 6, any disputes regarding the interpretation or the application of the Agreement.

(b) Croatia and the Muslim-majority Republic shall appoint three members each to the Joint Commission and they shall by joint agreement appoint three more members, one of whom shall be the Chairman. If no agreement can be reached on one or more of the joint appointments within three months, the Secretary-General of the United Nations shall make those appointments at the request of either party.

(c) The Joint Commission shall adopt its own rules of procedure. Its decisions shall require five concurring votes.

Article 5

The present Agreement is without prejudice to any rights or obligations flowing from the Preliminary Agreement between the Parties hereto for implementing the 1965 Convention on the Transit Trade of Land-Locked States or any agreement that may be concluded between the Parties to implement or to supersede that Preliminary Agreement.

Article 6

Unless otherwise agreed, any legal dispute concerning the interpretation of this Agreement may be submitted by either Party to the International Court of Justice.

Article 7

(a) This Agreement shall remain in force for a period of 99 years, except as otherwise agreed by the Parties.

(b) Should the Union be dissolved, it shall be succeeded as a Party to this Agreement by the Muslim-majority Republic.

DONE this _____ day of _____ 1993, in _____, in three copies, each in the English, Croatian and Serbian languages, which shall be equally authentic.